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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,276	10/20/2003	Neel J. Parikh	PG8784US	2923
22203	7590	06/02/2006	EXAMINER	
KUSNER & JAFFE HIGHLAND PLACE SUITE 310 6151 WILSON MILLS ROAD HIGHLAND HEIGHTS, OH 44143			INGBERG, TODD D	
			ART UNIT	PAPER NUMBER
			2193	

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/689,276	PARIKH ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Todd Ingberg	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/02, 1/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

Claims 1 – 30 have been examined.

#### ***Information Disclosure Statement***

1. The Information Disclosure Statements filed October 22, 2003 and January 20, 2004 have been considered in part. The submission of the documentation of “User’s document for NewSight Application Builder” fails to meet the disclosure requirements.
2. In the event, the Assignee Pegasus Technologies has recently been acquired by NeuCo Inc. and additional relevant information is available. An additional disclosure is welcome.

#### ***Drawings***

3. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings have hand writing on them. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

#### ***Specification***

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. Legal terms like “method” and “system” should not be in the title.

#### ***Claim Rejections - 35 USC § 101***

5. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1- 30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The current focus of the Patent Office in regard to statutory inventions under 35 U.S.C. § 101 for method claims and claims that recite a judicial exception (software) is that the claimed invention recite a practical application. Practical application can be provided by a physical transformation or a useful, concrete and tangible result. No physical transformation is recited and additionally, the final result of the claim is “storing data associated with each component of the control flow sequence” which is not a tangible result because the claim fails to explicitly state a computer readable medium supported in the Specification. The following link on the World Wide Web is for the United States Patent And Trademark Office (USPTO) policy on 35 U.S.C. §101.

[http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101\\_20051026.pdf](http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/guidelines101_20051026.pdf)

The Examiner has indicated a possible location for the adding of a computer readable medium supported in the Specification. The Examiner's words are only an example of location. Applicant should ensure support in the Specification.

#### Claim 1

A visual programming system for generating custom processing logic, the system comprising:  
means for selecting components from a group of components, wherein each component has associated properties, each selected component displayed in a design region;  
means for defining the properties associated with each selected component;  
means for linking the selected components to form one or more logic strings,  
said logic strings defining a control flow sequence;  
means for generating from said control flow sequence at least one of: source code, executable code and a dynamically linked library (DLL); and  
a global data store for storing data associated with each component of the control flow sequence **on a computer readable medium**, wherein each component of the control flow sequence shares their respective data with the other components through the global data store.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1- 4, 6 – 9, 11- 14 and 16 - 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Template Software Inc.

The **Template** product line contains:

The SNAP programming language ( Not used in this Office Action)

The Workflow Template (Two manuals used)

The Web Component ( Not used in this Office Action)

These three layered products work together.

The documentation sets for the products contains the following manuals.

**SNAP** released June 1997

SNAP Language Reference ( Not used in this Office Action)

Using the SNAP Language ( Not used in this Office Action)

Using the SNAP Communication Component ( Not used in this Office Action)

Using the SNAP Graphic User Interface Component ( Not used in this Office Action)

Getting Started with SNAP ( Not used in this Office Action)

Using the SNAP Display Editors ( Not used in this Office Action)

SNAP Class Library Reference ( Not used in this Office Action)

Using the SNAP External Application Software Component ( Not used in this Office Action)

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Using the SNAP Development Environment ( Not used in this Office Action)

SNAP Module Library Reference ( Not used in this Office Action)

Using the SNAP Permanent Storage Component ( Not used in this Office Action)

**Workflow** released September 1997

Developing a WFT Workflow System (Referred to as **WFT** )

Using the WFT Development Environment (Referred to as **USING** )

WFT Library Reference ( Not used in this Office Action)

**Web Component**

Using the Web Component ( Not used in this Office Action)

Since, these products work together they constitute a single reference and can be used as the basis for a rejection based on anticipated by a product offering. Furthermore, with the 1997 press release announcing version 8.0 these considered prior art under *In re Epstein* 31 USPQ2d 1817 (decided August 17, 1994) with a 1997 release date despite the 1998 copyright date.

**Claim 1**

WFT anticipates a visual programming system for generating custom processing logic (**WFT**, page Chapter 4 specifically, page 4-4 to 4-6), the system comprising:  
means for selecting components from a group of components (**USING**, Chapter 4, page 4-5 Class list box in figure), wherein each component has associated properties, each selected component displayed in a design region (**USING**, page 4-37, Attributes one of many);  
means for defining the properties associated with each selected component (**USING**, page 4-37, Attributes one of many); means for linking the selected components to form one or more logic strings (**WFT**, page Chapter 4 specifically, page 4-4 to 4-6), said logic strings defining a control flow sequence (**WFT**, page Chapter 4 specifically, page 4-13 to 4-29); means for generating from said control flow sequence at least one of: source code, executable code (**USING**, page 4-41) and a dynamically linked library (DLL); and a global data store for storing data associated with each component of the control flow sequence (**WFT**, page Chapter 4 specifically, page 4-13 to 4-29), wherein each component of the control flow sequence shares their respective data with the other components through the global data store (**WFT**, page Chapter 4 specifically, page 4-13 to 4-29 – as seen in the model).

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**Claim 2**

A visual programming system according to claim 1, wherein said group of components includes a component for generating a notification message (WFT, page 7-40, WFT Address Unix mail).

**Claim 3**

A visual programming system according to claim 2, wherein said notification message includes the value of a variable in the control flow sequence. (WFT, page 7-40, Path and filter functions).

**Claim 4**

A visual programming system according to claim 2, wherein said notification message is an electronic mail message sent to at least one electronic mail address. (WFT, page 7-40, WFT Address Unix mail).

**Claim 6**

A visual programming system according to claim 1, wherein data stored in said global data store is stored as a data object (USING, page 4-59, Constants), each data object having an associated (a) data type field for identifying the type of data stored as the data object (USING, page 4-56, Types), , (b) data name field for identifying a name for the data stored as the data object (USING, page 4-34, Class), and (c) reference count field for identifying the number of components that reference the associated data object (WFT, page 5-25, "Counting ...").

**Claim 7**

A visual programming system according to claim 1, wherein said group of components includes at least one component for expert system decision logic (WFT, page 4-27 – one example, Applicant should also look at Function tab in Using and Inference Engine).

**Claim 8**

A visual programming system according to claim 1, wherein said system further comprises means for examining the logic strings defining the control flow sequence, to map each component to a source code syntax and generate source code. As per claim 1. the relationship of the Workflow in the object oriented system and the source in the classes and the code generation for the build. (WFT, page 6-6, build).

**Claim 9**

A visual programming system according to claim 8, wherein said system further comprises means for compiling the source code to generate at least one of executable code and a dynamically linked library (DLL).

As per claim 1.

**Claim 11**

A visual programming method for generating custom processing logic, the method comprising: selecting components from a group of components, wherein each component has associated properties, each selected component displayed in a design region; defining the properties associated with each selected component, wherein data

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associated with each component of the control flow sequence is stored in a global data store, each component of the control flow sequence sharing their respective data with the other components through the global data store;  
linking the selected components to form one or more logic strings, said logic strings defining a control flow sequence; and generating from said control flow sequence at least one of: source code, executable code and a dynamically linked library (DLL). As per the rejection for claim 1.

**Claim 12**

A visual programming method according to claim 11, wherein said group of components includes a component for generating a notification message. As per the rejection for claim 2.

**Claim 13**

A visual programming method according to claim 12, wherein said notification message includes the value of a variable in the control flow sequence. As per the rejection for claim 3.

**Claim 14**

A visual programming method according to claim 12, wherein said notification message is an electronic mail message sent to at least one electronic mail address. As per the rejection for claim 4.

**Claim 16**

A visual programming method according to claim 11, wherein data stored in said global data store is stored as a data object, each data object having an associated (a) data type field for identifying the type of data stored as the data object, (b) data name field for identifying a name for the data stored as the data object, and (c) reference count field for identifying the number of components that reference the associated data object. As per the rejection for claim 6.

**Claim 17**

A visual programming method according to claim 11, wherein said group of components includes at least one component for expert method decision logic. As per the rejection for claim 7.

**Claim 18**

A visual programming method according to claim 11, wherein said method further comprises the step of examining the logic strings defining the control flow sequence, to map each component to a source code syntax and generate source code. As per the rejection for claim 8.

**Claim 19**

A visual programming method according to claim 18, wherein said method further comprises the step of compiling the source code to generate at least one of executable code or a dynamically linked library (DLL). As per the rejection for claim 9.



***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Template in view of Microsoft Outlook (MS), 1999.

**Claim 5**

A visual programming system according to claim 4, wherein said electronic mail message includes at least one file attachment.

WFT teaches the integration of email in a workflow system. (WFT, page 7-40, WFT Address Unix mail). WFT does not explicitly teach an attachment to an email. It is Microsoft who teaches the well known feature of adding an attachment to an email (MS, page 53, attachment). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Template with Microsoft because attachments in email enable users to add to email messages.

**Claim 15**

A visual programming method according to claim 14, wherein said electronic mail message includes at least one file attachment. As per the rejection for claim 5.

10. Claims 10, 20 – 23 and 26 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Template Software presented above in view of Soot USPN # 6,325,025 B1, Perrone .

**Rejection for claims 10 and 20**

Template teaches a visual programming environment system. Template does not explicitly teach interfacing to a Combustion Optimization System (Soot, Abstract). It is Perrone who teaches a Combustion Optimization System. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Template and Soot, because Workflow

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development systems integrated with Soot control systems make operations more cost effective

(Soot, Col 2, lines 4 – 5).

**Claim 10**

A visual programming system according to claim 1, wherein said group of components includes at least one Function component, said Function component used in connection with at least one of a Sequential Optimizer application, a Combustion Optimization System (COS) application, a PerfIndex application, a Smart Sootblowing application, and a Intelligent Sootblowing application.

**Claim 20**

A visual programming method according to claim 11, wherein said group of components includes at least one Function component, said Function component used in connection with at least one of: a Sequential Optimizer application, a Combustion Optimization System (COS) application, a PerfIndex application, a Smart Sootblowing application, and a Intelligent Sootblowing application. As per the rejection for claim 10.

**Claim 21**

**Sooth** teaches a control system for an electricity generating power plant, comprising: a central control system (Soot, Abstract); a plurality of sensing devices for sensing operating conditions and parameters associated with the power plant (Soot, Abstract);

an optimization computer system for optimizing at least one power plant process (Sooth Abstract); and

a visual programming system for programming the optimization computer system (Template – WFT and USING as per claim 1), said visual programming system comprising:

(a) means for selecting components from a group of components(Template – WFT and USING as per claim 1), wherein each component has associated properties(Template – WFT and USING as per claim 1), each selected component displayed in a design region(Template – WFT and USING as per claim 1),

(b) means for defining the properties associated with each selected component(Template – WFT and USING as per claim 1),

(c) means for linking the selected components to form one or more logic strings, said logic strings defining a control flow sequence(Template – WFT and USING as per claim 1),

(d) means for generating from said control flow sequence at least one of: source code(Template – WFT and USING as per claim 1), executable code and a dynamically linked library (DLL), and

(e) a global data store for storing data associated with each component of the control flow sequence, wherein each component of the control flow sequence shares their respective data with the other components through the global data store (Template – WFT and USING as per claim 1).

Template teaches a visual development environment and Soot teaches a system of optimizing combustion. The combination of Template and Soot teach the integration of a workflow system

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with a system for a power plant. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Template and Soot because integrated workflow tools provide for rapid solutions.

**Claim 22**

A control system according to claim 21, wherein said group of components includes a component for generating a notification message. The limitations are present in the limitations of claim 2.

**Claim 23**

A control system according to claim 22, wherein said notification message includes the value of a variable in the control flow sequence. The limitations are present in the limitations of claim 3.

**Claim 26**

A control system according to claim 23, wherein data stored in said global data store is stored as a data object, each data object having an associated (a) data type field for identifying the type of data stored as the data object, (b) data name field for identifying a name for the data stored as the data object, and (c) reference count field for identifying the number of components that reference the associated data object. The limitations are present in the limitations of claim 6.

**Claim 27**

A control system according to claim 21, wherein said group of components includes at least one component for expert system decision logic. The limitations are present in the limitations of claim 7.

**Claim 28**

A control system according to claim 21, wherein said system further comprises means for examining the logic strings defining the control flow sequence, to map each component to a source code syntax and generate source code. The limitations are present in the limitations of claim 8.

**Claim 29**

A control system according to claim 27, wherein said system further comprises means for compiling the source code to generate at least one of executable code and a dynamically linked library (DLL). The limitations are present in the limitations of claim 9.

**Claim 30**

A control system according to claim 21, wherein said optimization computer system includes at least one of: a Sequential Optimizer application, a Combustion Optimization System (COS) application, a PerfIndex application, a Smart Sootblowing application, and a Intelligent Sootblowing application, said group of components includes at least one Function component, said Function component used in connection with at least one of: the Sequential Optimizer application, the Combustion Optimization System (COS) application, the PerfIndex application,

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the Smart Sootblowing application, and the Intelligent Sootblowing application. The limitations are present in the limitations of claim 10.

Claims **24 – 25** are rejected under 35 U.S.C. 103(a) as being unpatentable over Template and Soot in view of MS. The combination of Template teaches a visual development environment for optimizing combustion and Template teaches the integration of email but does not explicitly teach attachments for email. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to combine Template and Soot with Microsoft because attachments in email enable users to add to email messages.

**Claim 24**

A control system according to claim 22, wherein said notification message is an electronic mail message sent to at least one electronic mail address. The limitations are present in the limitations of claim 4.

**Claim 25**

A control system according to claim 24, wherein said electronic mail message includes at least one file attachment. The limitations are present in the limitations of claim 5.

***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1- 30 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention by Neu Co, Inc. commercial product NeuSIGHT Application Builder.

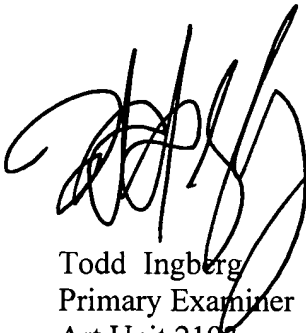
***Correspondence Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Todd Ingberg whose telephone number is (571) 272-3723. The examiner can normally be reached on during the work week..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kakali Chaki can be reached on (571) 272-3719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Todd Ingberg  
Primary Examiner  
Art Unit 2193

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